



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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March 19, 2012

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Review Comments on NOAA's DSEIS for "Amendment 11 to the Fishery Management Plan for Spiny Lobster in the Gulf of Mexico and South Atlantic"; CEQ #20120026

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) Draft Supplemental Environmental Impact Statement (DSEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA understands that the spiny lobster fishery management plan (FMP) is the jointly managed by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). EPA previously provided comments on the DEIS and FEIS for Amendment 10 of the spiny lobster fishery management plan (FMP). EPA understands that NOAA chose to postpone decisions on two actions proposed in Amendment 10 related to protection of elkhorn and saghorn corals, and Amendment 11 provides follow-up on these actions.

The purpose and need for Amendment 11 is to implement measures to protect threatened and endangered elkhorn and staghorn corals in the U.S. Exclusive Economic Zone (EEZ) and to aid in their recovery. EPA also understands that NOAA completed a formal consultation and resulting biological opinion in 2009 which identified some of the proposed actions identified in this Amendment. Furthermore, the proposed actions in Amendment 11 are being proposed to meet the requirements of the Endangered Species Act (ESA).

It is our understanding that NOAA proposes two actions within the DSEIS which include: 1) limit spiny lobster fishing in certain areas in the EEZ off the Florida Keys to protect elkhorn and staghorn corals, and 2) require gear markings for spiny lobster trap lines in the EEZ off Florida, which would allow greater accuracy in identifying fishery

interaction impacts to benthic habitats and protected species, leading to more targeted measures to reduce the level and severity of those impacts.¹

EPA has the responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including FMPs and FMP Amendments (Amendments) as developed, approved, and implemented under the MSA where those Plans and Amendments are subject to the EIS requirement of NEPA, but it should be clear that we defer to NOAA and the Councils as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species.

EPA commends NOAA's efforts to provide additional time for stakeholder involvement in addressing the actions proposed in Amendment 11 (previously proposed under Amendment 10). EPA also appreciates that several alternatives for proposed actions were presented and that preferred alternatives were identified in the DSEIS. Based on our review, we offer the following comments for the preferred alternatives for the two actions covered within the DSEIS.

Actions and Alternatives:

Action – 1: Limit Spiny Lobster Fishing in Certain Areas in the Exclusive Economic Zone (EEZ) off the Florida Keys to Protect Threatened Staghorn (*Acropora cervicornis*) and Elkhorn (*Acropora palmata*) Corals

EPA Comments

- Overall, EPA is more supportive of the Alternative 2 because it closes more area to spiny lobster fishing and is more protective of the elkhorn and staghorn corals. However, we understand NOAA's position of balancing the protection of the coral species while trying to minimize economic impact to the fishing and recreation industries.
- In discussing the differences between Alternatives 2 and 3 and Options A and B, it would be beneficial to provide additional background with regard to the suggested minimum level of protection needed for the elkhorn and staghorn corals identified in the 2009 biological opinion (if available). For example, did the biological opinion identify that the subject corals needed to be protected from traps only or a combination of traps, diving activities and boat anchoring? The DSEIS provides information on studies related to the potential for these activities to impact the corals but what is the position taken in the biological opinion? Expanding on this discussion would provide better insight into why NOAA selected Alternative 3 – Option B as the preferred alternative for Action 1.
- EPA recommends additional discussion on NOAA's process for expanding protection areas in the future in the event of new discoveries of elkhorn and staghorn coral colonies not identified in this EIS.

¹ p. x and xiii

Action – 2: Require Gear Markings for Spiny Lobster Trap Lines in the EEZ off Florida

EPA Comment

- The DSEIS provides lengthy discussion on UV degradation of trap lines for different color lines, line marking strategies, and the economic impact on the fishing industries. Since the no action alternative was selected for this action and the 2009 biological opinion requires implementation of trap line marking measures, we remain unclear on how the preferred alternative meets the requirements of the 2009 biological opinion. EPA recommends that NOAA further expand on potential future actions that could be taken to meet the 2009 biological opinion trap line markings requirement in the FSEIS. Based on our review, it would appear that additional research related to UV degradation of trap lines and the potential economic impact on the fishing industry may be needed. Please clarify if NOAA plans to study these issues further (provide timeline if available) and if NOAA plans to address this action in a future Amendment.

EPA DEIS Rating:

Although we offer some clarifying comments on this DSEIS, EPA generally supports NOAA on Amendment 11 and gives deference to their fishery expertise. Therefore, EPA rates this DSEIS as “LO” (Lack of Objections). Nevertheless, we request that NOAA respond to our comments in a dedicated section of the FSEIS.

EPA appreciates the opportunity to review this DSEIS. Should NOAA have questions regarding our comments on the Amendment actions, please feel free to contact Dan Holliman at 404/562-9531 or holliman.daniel@epa.gov of my staff.

Sincerely,



Heinz J. Mueller
Chief, NEPA Program Office
Office of Policy and Management